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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/343,958	06/30/1999	SERGE JEAN MAURICE MISTER	0500.9904131	8512

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VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

EXAMINER	
ZAND, KAMBIZ	
ART UNIT	PAPER NUMBER
2132	11

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/343,958	MISTER, SERGE JEAN MAURICE	
	Examiner	Art Unit	
	Kambiz Zand	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7,9-13,16-20,22,24-27,30-34 and 36* is/are rejected.

7)☒ Claim(s) *6,8,14,15,21,23,28,29,35 and 37* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/29/2004 has been entered.

2. The text of those sections of Title 35,U.S.Code not included in this section can be found in the prior office action.

3. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.

4. Claims 1, 16 and 30 have been amended.

5. Claims 1-37 are pending.

Response to Arguments

6. Applicant's arguments filed 03/29/04 with respect to claims 1, 16, and 30 have been fully considered but they are not persuasive and are moot in view of new ground of rejection.

As per claims 1, 16 and 30, examiner refers Applicant to the following remarks:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., " ...prevent keyboard sniffing applications and other applications attempting to intercept messages from a message queue of a particular application by inserting, for example fake messages" recited in page 12, paragraph two of the response) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "such a system may be independent of an operating system" recited in page 12, paragraph two of the response) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. **Claims 1-5, 7, 9, 16-20, 22, 30-34 and 36** rejected under 35 U.S.C. 103(a) as being unpatentable over Fadem et al (4,744,077) in view of Young et al (4,805,222) cited in the pto-892 (paper number 4).

As per claims 1, 16 and 30 Fadem et al (4,744,077) teach a method, apparatus and an storage medium for facilitating prevention of interception of incoming data that is provided for a software application, comprising the steps of: providing insertion data, for insertion as part of the incoming data (see col.12, lines 33-52 wherein the 8 bit data contains keystroke data and LFC characters and an id bit, Examiner considers any of the three data bits as an insertion data); storing the generated insertion data; and filtering received incoming data containing actual data and the insertion data (see col.12, line 45-52 wherein the incoming data are stored in RCV FIFO) by comparing stored generated insertion data with incoming data to determine which data is actual data (see col.12, lines 54-66 wherein by examining the third bit of high order nibble of second and compare it to the lower nibble data that identified the user, it recognizes the data as keystroke or LFC character, therefore if the actual data is keystroke or LFC character and the insertion data is the id of the user then by comparison the actual data is retrieved, the same analogy could be used in reverse. Examiner's interpretation is based on the broad claim language that is recited in the above claims). Also see col.13-15. However Fadem et al do not disclose providing insertion data in order to prevent interception of the incoming data. Young et al do disclose providing insertion data, to

prevent interception of the incoming data (see abstract; col.2; col.3, lines 1-14 where the comparison between the keystrokes as inserted data are done to determine the validity and therefore preventing the insertion data by denying access if the comparison is not valid. Also see the entire disclosure for more detailed). It would have been obvious to one of ordinary skilled in the art at the time the invention was made to utilize Young's keystroke comparison method (as data insertion comparison) in Fadem's data processing network transmission consisting of actual and keystroke inserted data in order to detect false insertion data or keystroke pattern by comparison means.

As per claims 2, 17 and 31 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of processing the actual data resultant from filtering for use by the software application (see col.18, lines 13-20).

As per claims 3, 18 and 32 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of receiving the generated insertion data and actual data from a data input source; and queuing the insertion data with actual data for output as the incoming data (see col.11, lines 67-68 and col.12, lines 1-3).

As per claims 4, 19 and 33 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of analyzing foreground indication data and enabling generation of the insertion data in response to the

foreground indication data (see col.18, lines 66-68 and col.19, lines 1-14 wherein in response to content of HRQ data the insertion of characters into the data is selected).

As per claims 5, 20 and 34 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of controlling timing of insertion data generation and output based on data queue parameters (see col.13, lines 19-46).

As per claims 7, 22 and 36 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of storing a list of data representing data to be used as randomization data; randomly selecting the randomized data from the list of data; and formatting the randomized data as insertion data in a same format as actual data (see col.18, lines 66-68 and col.19, lines 1-14).

As per claim 9 Fadem et al (4,744,077) the method of claim 1 wherein the step of providing includes: providing the insertion data, under control of the software application that is to receive the incoming data (see col.17, lines 19-61).

9. **Claims 10-13 and 24-27** rejected under 35 U.S.C. 103(a) as being unpatentable over Fadem et al (4,744,077) in view of Morgan et al (3,878,332) recited in pto-892 (paper number 4).

As per claims 10 and 24 Fadem et al (4,744,077) a method and an apparatus for facilitating prevention of interception of incoming data that is provided for a software application, comprising the steps of analyzing foreground indication data and enabling generation of the insertion data in response to the foreground indication data (see col.18, lines 66-68 and col.19, lines 1-14 wherein in response to content of HRQ data the insertion of characters into the data is selected); storing a list of data representing data to be randomized; selecting data from the list of data as insertion data (see col.18, lines 66-68 and col.19, lines 1-14); providing selected insertion data for insertion as part of the incoming data; formatting the insertion data in a same format as actual data; storing the generated insertion data; mixing the insertion data with incoming data; and filtering received incoming data containing actual data and the insertion data by comparing stored generated insertion data with incoming data to determine which data is actual data (see col.12, lines 33-52 wherein the 8 bit data contains keystroke data and LFC characters and an id bit, Examiner considers any of the three data bits as an insertion data); storing the generated insertion data; and filtering received incoming data containing actual data and the insertion data; col.12, line 45-52 wherein the incoming data are stored in RCV FIFO; see col.12, lines 54-66 wherein by examining the third bit of high order nibble of second and compare it to the lower nibble data that identified the user, it recognizes the data as keystroke or LFC character, therefore if the actual data is keystroke or LFC character and the insertion data is the id of the user then by comparison the actual data is retrieved, the same analogy could be used in reverse. Examiner's interpretation is based on the broad claim language that is recited in the

above claims) but do not disclose that the data selected are randomized data. However Morgan discloses the data selected are randomized data (see abstract). It would have been obvious to one of ordinary skilled in art at the time the invention was made to utilize Morgan's randomization inserted data in Fadem's data processing network transmission consisting of actual and keystroke inserted data in order to provide security for digital transmission using key stroking method by comparison.

As per claims 11 and 25 Fadem et al (4,744,077) the method, apparatus of claims 10 and 25 including the step of processing the actual data resultant from filtering for use by the software application (see col.18, lines 13-20).

As per claims 12 and 26 Fadem et al (4,744,077) the method, apparatus of claims 10 and 25 including the step of receiving the generated random insertion data and actual data from a data input source; and queuing the random insertion data with the actual data for output as the incoming data (see col.11, lines 67-68 and col.12, lines 1-3).

As per claims 13 and 27 Fadem et al (4,744,077) the method, apparatus of claims 10 and 25 including the step of controlling timing of random insertion data generation and output based on data queue parameters (see col.13, lines 19-46).

Allowable Subject Matter

10. Claims 6, 8, 14, 15, 21, 23, 28-29,35 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Zand whose telephone number is (703) 306-4169. The examiner can normally reached on Monday-Thursday (8:00-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (703) 305-1830. The fax phone numbers for the organization where this application or proceeding is assigned as (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kambiz Zand

05/19/04